

REMARKS

Claim 15 has been rejected under **35 USC 112**, for lack of a definition of "optically equivalent." Claim 15 has been cancelled, but the limitations therein have been incorporated into claim 1. Claim 1 has been further amended to include an explicit definition of "optically equivalent," in particular, having "optical properties of transmissivity and refraction substantially equivalent to the pane in combination with the lower pane." This Amendment to claim is believed to overcome the rejection.

Claims 1-2, 4, and 6-16 are rejected under **35 USC 102(e)** as anticipated by Suzuki. All of the claims in this rejection are dependent from claim 1.

Claim 1 has been amended to include limitations in which the combination of a pane associated with the document handler and a lower pane in the body of the apparatus is optically equivalent, in terms of transmissivity and refraction, to the lower pane *itself*. The practical reason for such a limitation is to enable a machine in which an image receptor, such as a photosensor chip, is optically "indifferent" as to whether it is receiving light through both panes (as would occur when the document handler is being used) or just the lower pane (as may happen if a main platen were being used by itself). Support for this limitation is given in the Specification as filed at paragraph 0015:

Since scanner bar 32 is used to record hard-copy images on either main platen 30 or through pane 50 (and possibly through lower pane 60 as well), the optical layout and positioning of main platen 30 and pane 50 and lower pane 60 may, in some embodiments, be made consistent ... Such an arrangement is helpful in a design in which main platen 30 is, from the perspective of scanner bar 32, optically equivalent to pane 50 (or pane 50 in combination with lower pane 60).

(It will also be noted that, in possible embodiments, the lower pane 60 can be co-planar with, or even be a part of, a main platen such as 30. In a previous Amendment to the Specification, the phrase "optically equivalent" was explicitly defined, as it is in claim 1 as currently amended.)

The Final rejection points to FIG. 9 of Suzuki, where a lens 70 is disposed between "reading glass" 13 and roller 48 of document feeding unit 31; this arrangement is described in detail at column 6, lines 35-45 of Suzuki. However, it is perfectly clear, from FIG. 9 of Suzuki, that lens 70, by virtue of its convex-top shape, has distinct lens-like properties markedly different from the essentially flat lower pane/platen 13 on which it is disposed. Therefore, if one considers lens 70 to be the "pane" as recited in claim 1, the "lower pane" 13 by itself has markedly different optical properties (particularly refraction) than the *combination* of lower pane/platen 13 and lens 70, and therefore the language of "wherein the lower pane has optical properties of transmissivity and refraction substantially equivalent to the pane in combination with the lower pane" in claim 1 as amended cannot be shown by Suzuki, and the rejection under 35 USC 102(e) is inapposite.

Regardless of the above argument, Applicants do not retract arguments made earlier in prosecution. As argued in a previous Amendment, there is no disclosure that if unit 31 in Suzuki is lifted up, lens 70 is lifted up with it, as also recited in claim 1. Suzuki makes no suggestion whatever of this feature. For this reason, in addition to the above arguments, claim 1, along with its dependent claims, is not anticipated by Suzuki.

Claims 3 and 5 are rejected under **35 USC 103(a)** over Suzuki and further in view of Nakano et al. Whatever the disclosure of Nakano et al., these claims are deemed allowable as being dependent from claim 1.

The claims are therefore in condition for allowance.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby requested to call the undersigned attorney at (585) 423-3811.

Respectfully submitted,

/Robert Hutter, Reg. No. 32,418/

Robert Hutter

Attorney for Applicants

Registration No. 32,418

Telephone (585) 423-3811